

## PART A

### General Provisions

#### Rule A.1 - Scope.

a. Except as otherwise ~~specifically provided~~ specified, these ~~regulations~~ rules apply to all persons who acquires, receives, owns, possesses, uses, stores, transports, transfers, ~~own~~, ~~or acquire or disposes~~ any source of radiation. ~~provided that n~~Nothing in these ~~regulations~~ rules shall apply to any person to the extent such the person is subject to regulation by the U.S. Nuclear Regulatory Commission.<sup>1/</sup>

The footnote has been deleted.

b. A person subject to the requirements for registration or licensing for sources of radiation in the possession or control of the person, shall comply with the act and with these rules.

#### Rule A.2 - Definitions.

Specific definitions will be added later in the rules revision process.

As used in this Part, "act" means 1978 PA 368, as amended, MCL 333.1101 to 333.25211.

### Exemptions from the Regulatory Requirements

#### Rule A.3 - Exemptions

- a. General Provision. The Agency department may, ~~upon application in response to a request~~ or ~~upon~~ its own initiative, grant such an exemption~~s~~, or exceptions from the requirements of these ~~regulations~~ rules as it determines ~~are is~~ authorized by law and will not result in an undue hazard to public health and safety, ~~or property, or the environment~~.
- b. Department of Energy Contractors and Nuclear Regulatory Commission Contractors. Any ~~D~~department of ~~E~~energy contractor or subcontractor and any ~~N~~nuclear ~~R~~regulatory ~~C~~commission contractor or subcontractor of the following categories ~~operating within~~ working in this ~~S~~state is exempt from these ~~regulations~~ rules to the extent that such the contractor or subcontractor under his the contract receives, acquires, possesses, uses, transfers, ~~or transports, or acquires a~~ sources of radiation:
- A Pprime contractors ~~s performing doing~~ work for the ~~D~~department of ~~E~~energy at a U.S. ~~G~~government-owned or -controlled sites, including the transportation of a sources of radiation to or from such a sites and the performance of contract services during temporary interruptions of such the transportation.
  - A Pprime contractors of the ~~D~~department of ~~E~~energy ~~performing doing~~ research in, or development, manufacture, storage, testing, or transportation of, ~~atomic a nuclear~~ weapons or a components ~~s thereof of a nuclear weapon~~.
  - A Pprime contractors of the ~~D~~department of ~~E~~energy using or operating a nuclear reactors or other nuclear devices in a ~~United States, G~~government-owned vehicle or

<sup>1/</sup>~~Attention is directed to the fact that regulation by the State of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the State and the Nuclear Regulatory Commission and to 10 CFR Part 150 of the Commission's regulations.~~

vessel.

- iv. Any other prime contractor or subcontractor of the ~~D~~department of ~~E~~energy or of the ~~N~~nuclear ~~R~~regulatory ~~C~~commission when the ~~S~~state and the ~~U.S.~~ ~~N~~nuclear ~~R~~regulatory ~~C~~commission jointly determine that:

- (1) ~~That t~~The exemption of the prime contractor or subcontractor is authorized by law.  
(2) ~~That, under t~~The terms of the contract or subcontract, ~~there is adequate~~ provide sufficient assurance that the work ~~there~~under the contract or subcontract can be accomplished done without undue risk to the public health and safety, property, and the environment.

## General Regulatory Requirements

### Rule A.4 - Records.

Each A licensee and or registrant shall maintain keep records showing relating to the receipt, use, storage, transfer, and disposal of all each sources of radiation. Additional Other record requirements are specified elsewhere in these regulations rules.

### Rule A.5 - Inspections.

- a. Under authority of section 13517(1) of the act, Each a licensee and or registrant shall afford allow the Agency department at all reasonable times opportunity to inspect a sources of radiation and the premises and facilities where ~~in such a~~ sources of radiation are is used or stored.
- b. Under authority of section 13517(2) of the act, the department may obtain a warrant for search of property or seizure of a source of radiation or evidence of a violation of the act or a rule, registration, or license.

From Rule 42(2) of current "Ionizing Radiation Rules."

c. Each A licensee and or registrant shall make available to the Agency department for inspection, upon at all reasonable notice times, records maintained pursuant to under these regulations rules.

The following states have "all reasonable times" - AZ, CA, CO, FL, MN, OH-xray, OH-ram, OK, and TN. The following states have "any reasonable time" - NY-DOH, UT.

### Rule A.6 - Tests.

Upon instruction by the department, Each a licensee and or registrant shall perform-upon instructions from the Agency make or cause to be made, or and shall permit allow the Agency department to perform, such reasonable make tests as that the Agency deems department considers appropriate or necessary including, but not limited to, tests of:

- a. Sources of radiation.  
b. Facilities where ~~in~~ sources of radiation are used or stored.  
c. Radiation detection and monitoring instruments.  
d. Other equipment and devices used in connection with utilization use or storage of licensed or-registered sources of radiation.

## Additional Regulatory Requirements

### Rule A.7 - Additional Requirements.

The Agency department may impose, by rule, ~~regulation, or by~~ order, or by license or registration conditions, impose upon any on a licensee or registrant such additional requirements ~~in addition to those established in these regulations as that~~ it ~~deems~~ considers appropriate or necessary to minimize danger to public health and safety, ~~or property, and the~~ environment.

## Enforcement Requirements

### Rule A.8 - Violations.

- a. An Under authority of section 13536 of the act, the department may obtain an injunction or other court order ~~may be obtained~~ prohibiting any a violation of any provision of the Act or any regulation, a rule, or order, or condition of a license or registration issued ~~thereunder~~ under the act.
- b. Under the authority of section 13535 of the act, the department, in addition to taking other enforcement action, may impose a civil penalty, not to exceed \$10,000 for each violation, on a person who violates the act or a rule, or order, or condition of a license or registration issued under the act. Each day that a violation continues shall constitute a separate offense.
- c. Any A person who willfully violates ~~any provision of~~ the Act or any regulation a rule, or order, or condition of a license or registration issued ~~thereunder~~ the act may be guilty of a ~~[felony, misdemeanor or crime]~~ and, ~~upon~~ conviction, may be fined, imprisoned, or both, as provided by law. ~~Each day that a violation continues shall constitute a separate offense.~~

The added sentences provide information from section 13535 of the act.

### Rule A.9 - Emergency Orders and Impounding.

- a. The department shall have the authority to issue an emergency order pursuant to section 13516 of the act. A person responsible for the source of radiation shall bear expenses incidental to the order.
- b. Sources A source of radiation shall be subject to impoundment pursuant to section 13517 of the act. Impoundment by the department shall not relieve the owner of the responsibility for the source of radiation. A person who has a source of radiation impounded shall bear expenses incidental to the impoundment.

The two sentences were added to explicitly state that the owner of an impounded source of radiation maintains responsibility for expenses related to the impoundment and, potentially, the subsequent disposal of the source.

### Rule A.10 - Prohibited Uses.

- a. ~~A hand-held fluoroscopic screen shall not be used with x-ray equipment unless it has been listed in the Registry of Sealed Source and Devices or accepted for certification by the Food and Drug Administration, Center for Devices and Radiological Health.~~

~~b. A shoe-fitting fluoroscopic device shall not be used.~~

These prohibited uses will be included in the x-ray rules.

## Hearing Procedure

### Rule A.WW - Hearing Procedure.

a. Before the issuance of an order, the department shall afford an opportunity for a hearing that shall be conducted pursuant to 1969 PA 306, as amended, MCL 24.201 et. seq.

b. In a contested case, the department shall conduct a hearing as provided in 1969 PA 306, as amended, MCL 24.201 et. seq.

Part 1 of the current "Ionizing Radiation Rules" contains similar subrules. 1969 PA 306, as amended, is the "Administrative Procedures Act of 1969."

## {Interpretations}

~~[Rule A.11 — Interpretations. Except as specifically authorized by the Agency in writing, no interpretation of these regulations by an officer or employee of the Agency other than a written interpretation by the legal counsel will be recognized to be binding upon the Agency.]~~

This rule is optional in the Suggested State Regulations. Most agreement states do not have this rule.

## Communications

~~Rule A.12 — Communications. All communications and reports concerning these regulations, and applications filed thereunder, should be addressed to the Agency at its office located at [insert appropriate address.]~~

The U.S. Nuclear Regulatory Commission does not require this rule.

### Rule A.13 — Units of Exposure and Dose.

The definitions in Rule A.13 will be included in A.2 Definitions.

### Rule A.14 — Units of Activity.

The definitions in Rule A.14 will be included in A.2 Definitions.

### Rule A.XX - Deliberate misconduct.

a. This rule applies to each:

i. Licensee.

ii. Registrant.

iii. Applicant for a license or registration.

iv. Contractor (including a supplier or consultant) or subcontractor, to a person identified in paragraphs (a)(i) to (a)(iii) of this rule.

v. Employee or employer of a person identified in paragraphs (a)(i) through (a)(iv) of this rule.

b. A person who knowingly provides to an entity, listed in paragraphs (a)(i) to (a)(v) of this rule, components, equipment, materials, or other goods or services that relate to a licensee's, registrant's, or applicant's actions subject to this part, shall not:

i. Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee, registrant, or applicant to be in violation of a rule or order, or a term, condition, or limitation of a license or registration issued by the department.

ii. Deliberately submit to the department, a licensee, a registrant, or an applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the department.

c. A person who violates paragraph (b)(i) or (b)(ii) of this rule shall be subject to civil or criminal penalties, or both.

d. Deliberate misconduct by a person means an intentional act or omission that the person knows:

i. Would cause a licensee, registrant, or applicant to be in violation of a rule or order, or a term, condition, or limitation, of a license or registration issued by the department.

ii. Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, registrant, applicant, contractor, or subcontractor.

This rule is taken from 10 CFR 30.10, 50.5, and 71.8.

#### Rule A.YY - Severability.

If a court of competent jurisdiction finds that any rule or the application of a rule to a person or circumstance is invalid, the invalidity shall not affect the remaining rules or applications of the rules. These rules are declared to be severable.

Neither the Public Health Code nor the Administrative Procedures Act of 1969 has a severability provision. The wording is taken from Civil Service rule 1-2.1.

#### Rule A.18 – Rescission.

The rules of the department entitled “Ionizing Radiation Rules”, being R325.5001 to R325.5665 of the Michigan Administrative Code, are rescinded.

The “Administrative Rules in Michigan: A Manual of Style and Procedures” requires that a rule rescinding existing rules appear as the last rule of the first part, if the first part is entitled “Part 1. General Provisions.”